

1 **SECTION 75.** 46.90 (6) (bv), (bw) and (by) of the statutes are created to read:

2 46.90 (6) (bv) The identity of a person making a report of alleged abuse, neglect,
3 self-neglect, or financial exploitation shall be deleted from any record prior to its
4 release under par. (bt) or from any departmental report form prior to its release
5 under par. (b). The identity of any reporter may only be released with the written
6 consent of the reporter or under a lawful order of a court of record.

7 (bw) A person to whom a departmental report form or a record is disclosed
8 under this subsection may not further disclose it, except to the persons and for the
9 purposes specified in this subsection.

***NOTE: I changed "section" to "subsection" in this provision and in s. 55.043 (6)
(bw); correct?

10 (bv) A custodian of records or departmental report forms incurs no civil or
11 criminal liability under this subsection and may not be found guilty of unprofessional
12 conduct for the release or nonrelease of records or departmental report forms in
13 accordance with this subsection while acting in good faith and within the scope of his
14 or her authority.

***NOTE: I separated this provision from the penalty language of s. 46.90 (6) (c) 1.
(renumbered s. 46.90 (9) (a); s. 55.043 (6) (by) corresponds to it).

15 **SECTION 76.** 46.90 (6) (c) 1. of the statutes is renumbered 46.90 (9) (a) and
16 amended to read:

17 46.90 (9) (a) Any person, including the state or any political subdivision of the
18 state, violating ~~this subsection shall be~~ sub. (6) is liable to any person damaged as
19 a result of the violation for such damages as may be proved, together with exemplary
20 damages of not less than \$100 nor more than \$500 for each violation and ~~such the~~
21 costs and reasonable actual attorney fees as ~~may be~~ that are incurred by the person

1 damaged. ~~A custodian of records incurs no liability under this subdivision for the~~
2 ~~release of records in accordance with this subsection while acting in good faith.~~

3 **SECTION 77.** 46.90 (6) (c) 2. of the statutes is renumbered 46.90 (9) (b) and
4 amended to read:

5 46.90 (9) (b) In any action brought under ~~subd. 1. par. (a)~~ in which the court
6 determines that the violator acted in a manner that was knowing and willful, the
7 violator shall be liable for such damages as may be proved together with exemplary
8 damages of not less than \$500 nor more than \$1,000 for each violation, together with
9 costs and reasonable actual attorney fees as may be incurred. It is not a prerequisite
10 to an action under ~~this paragraph par. (a)~~ that the plaintiff suffer or be threatened
11 with actual damages.

12 **SECTION 78.** 46.90 (6) (c) 3. of the statutes is renumbered 46.90 (9) (c) and
13 amended to read:

14 46.90 (9) (c) An individual may bring an action to enjoin any violation of ~~this~~
15 ~~subsection sub. (6)~~ or to compel compliance with ~~this subsection sub. (6)~~, and may in
16 the same action seek damages as provided in this ~~paragraph subsection.~~ The
17 individual may recover costs and reasonable actual attorney fees as ~~may be~~ incurred
18 in the action, if he or she prevails.

****NOTE: I renumbered s. 46.90 (6) (c) 1., 2., and 3., stats., as s. 46.90 (9) (a), (b),
and (c) because statutes generally include penalties as one of the last provisions created
in a section. Section 55.043 (9m) corresponds to it. Please review.

19 **SECTION 79.** 46.90 (7) of the statutes is amended to read:

20 46.90 (7) EXCEPTION. Nothing in this section shall may be construed to mean
21 that a person is abused, financially exploited, neglected or in need of direct or
22 protective services solely because he or she consistently relies upon treatment by

1 spiritual means through prayer for healing in accordance with his or her religious
2 tradition.

3 **SECTION 80.** 46.90 (8) (a) of the statutes is amended to read:

4 46.90 (8) (a) The department shall develop a plan to assist ~~county~~
5 elder-adult-at-risk agencies in determining appropriate responses to reports of
6 abuse, ~~material abuse~~ financial exploitation, neglect, or self-neglect.

7 **SECTION 81.** 46.90 (8) (b) of the statutes is amended to read:

8 46.90 (8) (b) The department shall prepare and distribute sample
9 departmental report forms for use by ~~county~~ elder-adult-at-risk agencies.

10 **SECTION 82.** 46.90 (8) (c) and (d) of the statutes are amended to read:

11 46.90 (8) (c) The department shall collect statistical information from each
12 county pertaining to each reported case of abuse, ~~material abuse~~ financial
13 exploitation, neglect, or self-neglect. The department may require investigators
14 elder-adult-at-risk agency workers or investigators to submit statements
15 departmental report forms to the department that summarize the information being
16 reported. These ~~summary statements~~ departmental report forms may not name or
17 otherwise identify ~~individual persons~~ individuals. The department shall use this
18 information to review the effectiveness of this section, to plan program changes, and
19 to formulate reports.

20 (d) The department shall develop and disseminate information on elder
21 elder-adult-at-risk abuse and the elder abuse reporting system under this section.
22 The department shall also develop informational materials to be used by ~~county~~
23 elder-adult-at-risk agencies regarding elder abuse of elder adults at risk and
24 regarding the elder abuse reporting system. The department shall solicit

1 contributions of labor, materials, and expertise from private sources to assist in
2 developing the informational materials.

3 **SECTION 83.** 46.90 (9) (title) and (e) of the statutes are created to read:

4 46.90 (9) (title) PENALTIES.

5 (e) Whoever intentionally violates sub. (4) (ad) by failure to report as required
6 may be fined not more than \$500 or imprisoned not more than 6 months or both.

7 **SECTION 84.** 49.498 (3) (b) 1. of the statutes is amended to read:

8 49.498 (3) (b) 1. Inform each resident, orally and in writing at the time of
9 admission to the nursing facility, of the resident's legal rights during the stay at the
10 nursing facility, including a description of the protection of personal funds under sub.
11 (8) and a statement that a resident may file a complaint with the department under
12 s. 146.40 (4r) (a) concerning ~~misappropriation of property or~~ financial exploitation,
13 ✓ neglect, or abuse of a resident.

INSERT 34-13

14 **SECTION 85.** 50.09 (1) (k) of the statutes is amended to read:

15 50.09 (1) (k) Be free from ~~mental and physical abuse, and as defined in s. 46.90~~
16 (1) (a). The resident has a right to be free from chemical and physical restraints
17 except as authorized in writing by a physician for a specified and limited period of
18 time and documented in the resident's medical record. Physical restraints may be
19 used in an emergency when necessary to protect the resident from injury to himself
20 or herself or others or to property. However, authorization for continuing use of the
21 physical restraints shall be secured from a physician within 12 hours. Any use of
22 physical restraints shall be noted in the resident's medical records. "Physical
23 restraints" includes, but is not limited to, any article, device or garment which
24 interferes with the free movement of the resident and which the resident is unable
25 to remove easily, and confinement in a locked room.

1 **SECTION 86.** 51.01 (2g) (b) of the statutes is amended to read:

2 51.01 (2g) (b) “Brain injury” does not include alcoholism, Alzheimer’s disease
3 as specified under s. 46.87 (1) (a), or the infirmities of aging as specified under s. 55.01
4 (3) degenerative brain disorder, as defined in s. 55.01 (1v).

5 **SECTION 87.** 51.01 (3g) of the statutes is amended to read:

6 51.01 (3g) “Chronic mental illness” means a mental illness ^{that} which is severe in
7 degree and persistent in duration, ^{plain} which causes a substantially diminished level of
8 functioning in the primary aspects of daily living and an inability to cope with the
9 ordinary demands of life, which may lead to an inability to maintain stable
10 adjustment and independent functioning without long-term treatment and support
11 and which may be of lifelong duration. “Chronic mental illness” includes
12 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
13 psychiatric diagnostic categories, but does not include ~~infirmities of aging~~
14 degenerative brain disorder, as defined in s. 55.01 (1v), or a primary diagnosis of
15 mental retardation or of alcohol or drug dependence.

16 **SECTION 88.** 51.01 (5) (a) of the statutes is amended to read:

17 51.01 (5) (a) “Developmental disability” means a disability attributable to
18 brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, mental
19 retardation, or another neurological condition closely related to mental retardation
20 or requiring treatment similar to that required for mental retardation, which has
21 continued or can be expected to continue indefinitely and constitutes a substantial
22 handicap to the afflicted individual. “Developmental disability” does not include
23 senility which is primarily caused by the process of aging or the infirmities of aging
24 degenerative brain disorder, as defined in s. 55.01 (1v).

25 **SECTION 89.** 51.30 (4) (b) 17. of the statutes is amended to read:

1 51.30 (4) (b) 17. To the ~~county~~ elder-adult-at-risk agency designated under
2 s. 46.90 (2) or other investigating agency under s. 46.90 for the purposes of s. 46.90
3 (4) (a) and (5), to the county department, as defined in s. 48.02 (2g), or the sheriff or
4 police department for the purposes of s. 48.981 (2) and (3), or to the ~~county protective~~
5 ~~services~~ adult-at-risk agency designated under s. 55.02 for purposes of s. 55.043.
6 The treatment record holder may release treatment record information by initiating
7 contact with the ~~county protective services~~ elder-adult-at-risk agency,
8 adult-at-risk agency, or county department, as defined in s. 48.02 (2g), without first
9 receiving a request for release of the treatment record from the ~~county protective~~
10 ~~services~~ elder-adult-at-risk agency, adult-at-risk agency, or county department.

11 **SECTION 90.** 51.42 (3) (e) of the statutes is amended to read:

12 51.42 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
13 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
14 (3) (c) and 938.78 (2) (a), any subunit of a county department of community programs
15 or tribal agency acting under this section may exchange confidential information
16 about a client, without the informed consent of the client, with any other subunit of
17 the same county department of community programs or tribal agency, with a
18 resource center, a care management organization, a family care district, or with
19 any person providing services to the client under a purchase of services contract with
20 the county department of community programs or tribal agency or with a resource
21 center, care management organization, or family care district, if necessary to enable
22 an employee or service provider to perform his or her duties, or to enable the county
23 department of community programs or tribal agency to coordinate the delivery of
24 services to the client. Any agency releasing information under this paragraph shall
25 document that a request was received and what information was provided.

1 **SECTION 91.** 51.437 (4r) (b) of the statutes is amended to read:

2 51.437 (4r) (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,
3 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a),
4 any subunit of the a county department of developmental disabilities services or
5 tribal agency acting under this section may exchange confidential information about
6 a client, without the informed consent of the client, with any other subunit of the
7 same county department of developmental disabilities services or tribal agency, with
8 a resource center, a care management organization, or a family care district, or with
9 any person providing services to the client under a purchase of services contract with
10 the county department of developmental disabilities services or tribal agency or with
11 a resource center, a care management organization, or a family care district, if
12 necessary to enable an employee or service provider to perform his or her duties, or
13 to enable the county department of developmental disabilities services or tribal
14 agency to coordinate the delivery of services to the client. Any agency releasing
15 information under this paragraph shall document that a request was received and
16 what information was provided.

17 **SECTION 92.** 51.62 (1) (ag) of the statutes is repealed and recreated to read:

18 51.62 (1) (ag) “Abuse” has the meaning given in s. 46.90 (1) (a).

19 **SECTION 93.** 51.62 (1) (ar) of the statutes is created to read:

20 51.62 (1) (ar) “Financial exploitation” has the meaning given in s. 46.90 (1) (ed).

21 **SECTION 94.** 51.62 (1) (br) of the statutes is repealed and recreated to read:

22 51.62 (1) (br) “Neglect” has the meaning given in s. 46.90 (1) (f).

23 **SECTION 95.** 51.62 (3) (a) 2m. of the statutes is amended to read:

24 51.62 (3) (a) 2m. Have immediate access to any ~~person~~ individual with mental
25 illness or developmental disability, regardless of age, who has requested services or

1 on whose behalf services have been requested from the protection and advocacy
2 agency or concerning whom the protection and advocacy agency has reasonable
3 cause to believe that abuse, neglect, financial exploitation, or a violation of rights of
4 the individual has occurred.

5 **SECTION 96.** 55.001 of the statutes is amended to read:

6 **55.001 Declaration of policy.** The legislature recognizes that many citizens
7 of the state, because of ~~the infirmities of aging~~, chronic mental illness, ~~mental~~
8 ~~retardation~~, other degenerative brain disorders, developmental disabilities, or like
9 incapacities incurred at any age, are in need of protective services. Except as
10 provided in s. 49.45 (30m) (a), these services should, to the maximum degree of
11 feasibility under programs, services and resources that the county board of
12 supervisors is reasonably able to provide within the limits of available state and
13 federal funds and of county funds required to be appropriated to match state funds,
14 allow the individual the same rights as other citizens, and at the same time protect
15 the individual from financial exploitation, abuse, and degrading treatment. This
16 chapter is designed to establish those services and assure their availability to all
17 ~~persons~~ individuals when in need of them, and to place the least possible restriction
18 on personal liberty and exercise of constitutional rights consistent with due process
19 and protection from abuse, exploitation and neglect.

****NOTE: Note that in this section I did not make the more extensive changes that
are made in LRB-4212. I did, however, strike through the term "mental retardation" and
added "financial" to "exploitation." Okay? Any other changes?

20 **SECTION 97.** 55.01 (1) of the statutes is repealed and recreated to read:

21 55.01 (1) "Abuse" has the meaning given in s. 46.90 (1) (a).

22 **SECTION 98.** 55.01 (1e) of the statutes is created to read:

1 55.01 (1e) “Adult at risk” means any adult who has a physical or mental
2 condition that substantially impairs his or her ability to care for his or her needs and
3 who has experienced, is currently experiencing, or is at risk of experiencing abuse,
4 neglect, or financial exploitation. *self-neglect, ✓*

****NOTE: Why isn't self-neglect included in this definition? Without it, a provision such as s. 55.043 (6) (f), which refers directly to an adult at risk, would not work if the adult at risk was incurring problems associated only with self-neglect. Is this intentional?

5 **SECTION 99.** 55.01 (1f) of the statutes is created to read:

6 55.01 (1f) “Adult-at-risk agency” means the agency designated by the county
7 board of supervisors under s. 55.043 (1) to receive, respond to, and investigate reports
8 of abuse, neglect, self-neglect, and financial exploitation under s. 55.043.

9 **SECTION 100.** 55.01 (1m) of the statutes is amended to read:

10 55.01 (1m) “Bodily harm” has the meaning given in s. 939.22 (4) 46.90 (1) (aj).

11 **SECTION 101.** 55.01 (1p) of the statutes is repealed and recreated to read:

12 55.01 (1p) “Caregiver” has the meaning given in s. 46.90 (1) (an).

13 **SECTION 102.** 55.01 (1t) of the statutes is repealed.

14 **SECTION 103.** 55.01 (1v) of the statutes is created to read:

15 55.01 (1v) “Degenerative brain disorder” means the loss or dysfunction of an
16 individual's brain cells to the extent that he or she is substantially impaired in his
17 or her ability to provide adequately for his or her own care or custody.

18 **SECTION 104.** 55.01 (2) of the statutes is amended to read:

19 55.01 (2) “Developmentally disabled person” means any individual having a
20 disability attributable to mental retardation, cerebral palsy, epilepsy, autism or
21 another neurological condition closely related to mental retardation or requiring
22 treatment similar to that required for mentally retarded individuals, which has
23 continued or can be expected to continue indefinitely, substantially impairs the

individual from adequately providing for his or her own care or custody, and constitutes a substantial handicap to the afflicted individual. The term does not include ~~a person~~ an individual affected by senility which is primarily caused by the process of aging or ~~the infirmities of aging~~ degenerative brain disorder.

SECTION 105. 55.01 (2s) of the statutes is created to read:

55.01 (2s) “Financial exploitation” has the meaning given in s. 46.90 (1) (ed).

SECTION 106. 55.01 (3) of the statutes is repealed.

SECTION 107. 55.01 (4g) of the statutes is created to read:

55.01 (4g) “Investigative agency” has the meaning given in s. 46.90 (1) (er).

SECTION 108. 55.01 (4p) of the statutes is repealed.

SECTION 109. 55.01 (4r) of the statutes is repealed and recreated to read:

55.01 (4r) “Neglect” has the meaning given in s. 46.90 (1) (f).

SECTION 110. 55.01 (6) of the statutes is created to read:

55.01 (6) “Self-neglect” has the meaning given in s. 46.90 (1) (g).

SECTION 111. 55.01 (6g) of the statutes is created to read:

55.01 (6g) “State official” has the meaning given in s. 46.90 (1) (gr).

SECTION 112. 55.01 (7) of the statutes is repealed.

SECTION 113. 55.02 of the statutes is amended to read:

55.02 Protective service system; establishment. The department shall develop a statewide system of protective service for ~~mentally retarded and other~~ developmentally disabled persons, for aged infirm persons, for chronically mentally ill persons, and for persons with ~~other like incapacities~~ degenerative brain disorders incurred at any age in accordance with rules promulgated by the department. The protective service system shall be designed to encourage independent living and to avoid protective placement whenever possible. The system shall use the planning

1 and advice of agencies, including the county department under s. 46.215, 46.22,
2 46.23, 51.42, or 51.437. The chairperson of each county board of supervisors shall
3 designate a county department under s. 46.215, 46.22, 51.42, or 51.437 that is
4 providing services in his or her county or a joint mechanism of these county
5 departments to have the responsibility for local planning for the protective service
6 system. ~~The chairperson of the Milwaukee County board of supervisors~~ Each county
7 board shall designate the ~~county department under s. 46.215~~ an agency to serve as
8 the ~~county protective services~~ adult-at-risk agency for purposes of s. 55.043. The
9 department and these county departments shall cooperate in developing a
10 coordinated system of services. The department shall provide direct services and
11 enter into contracts with any responsible public or private agency for provision of
12 protective services. In each county, the county department designated under this
13 section shall determine the reporting requirements applicable to the county under
14 s. 880.38 (3).

***NOTE: Please review

15 **SECTION 114.** 55.043 (title) of the statutes is amended to read:

16 **55.043** (title) ~~County protective services~~ **Adult-at-risk** agency.

17 **SECTION 115.** 55.043 (1) (title) of the statutes is repealed.

18 **SECTION 116.** 55.043 (1) (a) (intro.) of the statutes is renumbered 55.043 (1r)

19 (a) 1g. and amended to read:

20 55.043 (1r) (a) 1g. ~~If a county protective services~~ Except as otherwise provided,
21 if an adult-at-risk agency has ~~probable cause~~ reason to believe that there is
22 ~~misappropriation of property or~~ an adult at risk has been the subject of abuse,
23 financial exploitation, neglect, or ~~abuse of a vulnerable adult,~~ the county protective
24 services self-neglect, the adult-at-risk agency may ~~conduct an investigation in~~

or self-neglect ✓

1 Milwaukee County respond, including by conducting an investigation, to determine
2 if the vulnerable adult in question whether the adult at risk is in need of protective
3 services. The county protective services agency shall conduct the investigation in
4 accordance with standards established by the department for conducting the
5 investigations. The investigation shall include at least one of the following: If an
6 adult-at-risk agency has reason to believe that there is abuse, financial exploitation,
7 ~~or~~ neglect of an adult at risk who is a client, as defined in s. 50.065 (1) (b), of an entity,
8 as defined in s. 50.065 (1) (c), and if the person suspected of perpetrating the alleged
9 abuse, financial exploitation, or neglect is a caregiver or nonclient resident of the
10 entity, the adult-at-risk agency shall refer the report within 24 hours after the
11 report is received to the department for investigation. The department shall
12 coordinate its investigatory efforts with other ~~investigatory~~ agencies or authorities
13 as appropriate. An adult-at-risk agency's response to or another investigative
14 agency's investigation of a report of abuse, financial exploitation, neglect, or
15 self-neglect that is not referred to the department shall be commenced within 24
16 hours after a report is received, excluding Saturdays, Sundays, and legal holidays.

***NOTE: Please see the ***NOTE under s. 46.90 (5) (a) 1.

17 SECTION 117. 55.043 (1) (a) 1. of the statutes is renumbered 55.043 (1r) (b) 2.
18 and amended to read:

investigative ✓

19 55.043 (1r) (b) 2. Observation of ~~or an interview with the vulnerable adult~~, in
20 private to the extent practicable, and the adult at risk, with or without consent of his
21 or her guardian or agent under an activated power of attorney for health care, if any.

***NOTE: This provision now mirrors s. 46.90 (5) (b) 2.

22 SECTION 118. 55.043 (1) (a) 2. of the statutes is renumbered 55.043 (1r) (b) 1.
23 and amended to read:

1 55.043 (1r) (b) 1. A visit to the residence of the ~~vulnerable adult~~ at risk.

2 **SECTION 119.** 55.043 (1) (a) 3. of the statutes is renumbered 55.043 (1r) (b) 4.
3 and amended to read:

4 55.043 (1r) (b) 4. An interview with the guardian or agent under an activated
5 power of attorney for health care, if any, and with the caretaker, if any, any caregiver
6 of the vulnerable adult at risk.

****NOTE: This subdivision now conforms to s. 46.90 (5) (b) 4.

7 **SECTION 120.** 55.043 (1) (a) 4. of the statutes is renumbered 55.043 (1r) (b) 5.
8 and amended to read:

9 55.043 (1r) (b) 5. A review of the treatment and patient health care records of
10 the ~~vulnerable adult~~ at risk.

11 **SECTION 121.** 55.043 (1) (a) 5. of the statutes is renumbered 55.043 (1r) (b) 6.
12 (intro.) and amended to read:

13 55.043 (1r) (b) 6. (intro.) A review of ~~those~~ any financial records, ~~if any,~~ of the
14 vulnerable adult at risk that are maintained by ~~the caretaker or landlord~~ a financial
15 institution, as defined in s. 705.01 (3); by an entity, as defined in s. 50.065 (1) (c); by
16 any caregiver of the vulnerable adult at risk; or by a member of the immediate family
17 of the vulnerable adult, at risk or the caretaker or the landlord. caregiver. The
18 records shall be released without informed consent in either of the following
19 circumstances:

****NOTE: This definition of "financial institution" is the same as the one you
reference in s. 46.90 (4) (ab) 2. Okay? Is my addition of "entity, as defined in s. 50.065"
okay?

20 **SECTION 122.** 55.043 (1) (b) (intro.) of the statutes is renumbered 55.043 (1r)
21 (c) (intro.) and amended to read:

1 55.043 (1r) (c) (intro.) The ~~county protective services~~ adult-at-risk agency or
2 other investigative agency may transport the ~~vulnerable~~ adult at risk for
3 performance of a medical examination by a physician if any of the following applies:

4 **SECTION 123.** 55.043 (1) (b) 1. of the statutes is renumbered 55.043 (1r) (c) 1.
5 and amended to read:

6 55.043 (1r) (c) 1. The ~~vulnerable~~ adult at risk or his or her guardian or agent
7 under an activated power of attorney for health care, if any, consents to the
8 examination.

9 **SECTION 124.** 55.043 (1) (b) 2. (intro.) of the statutes is renumbered 55.043 (1r)
10 (c) 2. (intro.) and amended to read:

11 55.043 (1r) (c) 2. (intro.) The ~~vulnerable~~ adult at risk is incapable of consenting
12 to the examination and one of the following applies:

13 **SECTION 125.** 55.043 (1) (b) 2. a. of the statutes is renumbered 55.043 (1r) (c)
14 2. a. and amended to read:

15 55.043 (1r) (c) 2. a. The ~~vulnerable~~ adult at risk has no guardian or agent under
16 an activated power of attorney for health care.

17 **SECTION 126.** 55.043 (1) (b) 2. b. of the statutes is renumbered 55.043 (1r) (c)
18 2. c. and amended to read:

19 55.043 (1r) (c) 2. c. The ~~vulnerable adult's guardian refuses to consent to the~~
20 ~~examination, but the examination is authorized by order of a court.~~

21 **SECTION 127.** 55.043 (1d) of the statutes is created to read:

22 55.043 (1d) ADULT-AT-RISK AGENCY DESIGNATION. Each county board shall
23 designate an agency as the adult-at-risk agency for the purposes of this section.

24 **SECTION 128.** 55.043 (1g) of the statutes is created to read:

1 55.043 (1g) ADULT-AT-RISK AGENCY DUTIES. (a) Each adult-at-risk agency shall
2 develop a policy for notifying other investigative agencies, including law
3 enforcement officials in appropriate cases, and shall establish an adult-at-risk
4 abuse reporting system to carry out the purposes of this section. Each adult-at-risk
5 agency shall enter into a memorandum of understanding regarding the operation of
6 the system with the county department under s. 46.215 or 46.22 and with any private
7 or public agency, including a county department under s. 51.42 or 51.437, within the
8 county that is participating in the adult-at-risk abuse reporting system. The
9 memorandum of understanding shall, at a minimum, identify the agencies that are
10 responsible for the investigation of reports of abuse, financial exploitation, neglect,
11 or self-neglect of adults at risk and for the provision of specific direct services.

12 (b) Each adult-at-risk agency shall receive reports of abuse, financial
13 exploitation, neglect, or self-neglect of adults at risk.

14 (c) Each adult-at-risk agency shall publicize the existence of an adult-at-risk
15 abuse reporting system in the county and shall provide a publicized telephone
16 number that can be used by persons wishing to report suspected cases of abuse,
17 financial exploitation, neglect, or self-neglect of adults at risk. Each adult-at-risk
18 agency shall also provide a telephone number that can be used by persons to make
19 reports after the adult-at-risk agency's regular business hours.

20 **SECTION 129.** 55.043 (1m) of the statutes is created to read:

21 55.043 (1m) REPORTING. (a) The following persons shall file reports as specified
22 in par. (b):

23 1. An employee of any entity that is licensed, certified, or approved by or
24 registered with the department.

25 2. An employee of a financial institution, as defined in s. 705.01 (3).

1 3. A health care provider, as defined in s. 155.01 (7).

2 4. A social worker, professional counselor, or marriage and family therapist
3 certified under ch. 457.

4 (b) Except as provided in par. (be), a person specified in par. (a) who has seen
5 an adult at risk in the course of the person's professional duties shall file a report with
6 the county department, the adult-at-risk agency, a state or local law enforcement
7 agency, the department, or the board on aging and long-term care if the adult at risk
8 has requested the person to make the report, or if the person has reasonable cause ✓
9 to believe that any of the following situations exist: sexual assault,

10 1. The adult at risk is at imminent risk of serious bodily harm, death, or
11 significant property loss and is unable to make an informed judgment about whether
12 to report the risk.

13 2. An adult at risk other than the subject of the report is at risk of serious bodily
14 harm, death, sexual assault, or significant property loss inflicted by a suspected
15 perpetrator.

****NOTE: Please see my changes to this provision. Why is sexual assault included
in this provision but not in subd. 1.?

16 (be) A person specified in par. (a) is not required to file a report as provided in
17 par. (b) if the person believes that filing a report would not be in the best interest of
18 the adult at risk. If the person so believes, the person shall document the reasons
19 for this belief in the case file that the person maintains on the adult at risk.

****NOTE: Note my change to the second sentence. I have assumed that "case file"
refers to the file on the elder adult at risk that the person makes and keeps in the course
of his or her professional duties. Is that correct, or is it, instead, a file that is maintained
by the elder adult-at-risk agency?

20 (br) Any person, including an attorney or a person working under the
21 supervision of an attorney, may report to the county department, adult-at-risk

1 agency, a state or local law enforcement agency, the department, or the board on
2 aging and long-term care that he or she believes that abuse, financial exploitation,
3 neglect, or self-neglect of an adult at risk has occurred if the person is aware of facts
4 or circumstances that would lead a reasonable person to believe or suspect that
5 abuse, financial exploitation, neglect, or self-neglect of an adult at risk has occurred.
6 The person shall indicate the facts and circumstances of the situation as part of the
7 report.

****NOTE: Your proposal had numbered this paragraph 55.043 (1m) (br) 1., but no
55.043 (1m) (br) 2. was included. Had you intended to have one?

8 (c) 1. a. No person may discharge or otherwise retaliate or discriminate against
9 any person for reporting in good faith under this subsection.

10 b. No person may discharge or otherwise retaliate or discriminate against any
11 individual on whose behalf another person has reported in good faith under this
12 subsection.

13 d. Any discharge of a person or act of retaliation or discrimination that is taken
14 against a person who makes a report under this subsection, within 120 days after the
15 report is made, establishes a rebuttable presumption that the discharge or act is
16 made in response to the report. This presumption may be rebutted by a
17 preponderance of evidence that the discharge or act was not made in response to the
18 report.

19 2. b. Any employee of an employer who is discharged or otherwise
20 discriminated against may file a complaint with the department of workforce
21 development under s. 106.54 (5).

****NOTE: Please note that I deleted the creation of s. 55.043 (1m) (c) 2. a. The
counterpart to this provision, s. 46.90 (4) (b) 2. a., was repealed in 2003 Wisconsin Act 33,
and the personnel commission was abolished.

1 c. Any person not described in subd. 2. b. who is retaliated or discriminated
2 against in violation of subd. 1. a. or b. may commence an action in circuit court for
3 damages incurred as a result of the violation.

4 (d) No person may be held civilly or criminally liable or be found guilty of
5 unprofessional conduct for reporting in good faith under this subsection, or for filing
6 a report with an agency not listed in par. (b) (intro.) or (br) if the person had a good
7 faith belief that the report was filed correctly with one of the listed agencies.

****NOTE: I have now conformed this paragraph to s. 46.90 (4) (e).

8 (e) If a report under par. (b) or (br) is made to a state official, the state official
9 shall refer the report to the appropriate adult-at-risk agency.

****NOTE: I deleted "other than the adult-at-risk agency," to conform this provision
to s. 46.90 (4) (d) and because I think that an adult-at-risk agency is not a state official,
although I may be incorrect in my reading of s. 46.90 (1) (gr). Please review.

10 (f) Any person making a report under this subsection is presumed to have
11 reported in good faith.

****NOTE: This paragraph now conforms to s. 46.90 (4) (e).

12 **SECTION 130.** 55.043 (1r) (title) of the statutes is created to read:

13 55.043 (1r) (title) RESPONSE AND INVESTIGATION.

14 **SECTION 131.** 55.043 (1r) (a) 2. of the statutes is created to read:

15 55.043 (1r) (a) 2. If an agent or employee of an adult-at-risk agency authorized
16 required to respond under this subsection is the subject of a report, or if the
17 adult-at-risk agency or an agency under contract with the county department
18 determines that the relationship between the adult-at-risk agency and the agency
19 under contract with the county department would not allow for an unbiased
20 response, the adult-at-risk agency shall, after taking any action necessary to protect
21 the adult at risk, notify the department. Upon receipt of the notice, the department
22 or a county department under s. 46.215, 46.22, 51.42, or 51.437 designated by the

1 department shall conduct an independent investigation. The powers and duties of
2 a county department making the independent investigation are those given to an
3 adult-at-risk agency under pars. (b) to (g) and sub. (6).

****NOTE: Please see the ****NOTE under s. 46.90 (5) (a) 2.

4 **SECTION 132.** 55.043 (1r) (b) (intro.) of the statutes is created to read:

5 55.043 (1r) (b) (intro.) The adult-at-risk agency's response or another
6 investigative agency's investigation may include one or more of the following:

****NOTE: This provision now mirrors s. 46.90 (5) (b) (intro.). Please see the
****NOTE under that provision.

7 **SECTION 133.** 55.043 (1r) (b) 3. of the statutes is created to read:

8 55.043 (1r) (b) 3. An interview with the adult at risk, in private to the extent
9 practicable, and with or without consent of his or her guardian or agent under an
10 activated power of attorney for health care, if any.

11 **SECTION 134.** 55.043 (1r) (b) 6. a. of the statutes is created to read:

12 55.043 (1r) (b) 6. a. To an adult-at-risk agency or other investigative agency
13 under this section. The financial record holder may release financial record
14 information by initiating contact with the adult-at-risk agency or other
15 investigative agency without first receiving a request for release of the information
16 from the adult-at-risk agency or other investigative agency.

****NOTE: This subdivision unit now conforms to s. 46.90 (5) (b) 6. a.; correct?

17 **SECTION 135.** 55.043 (1r) (b) 6. b. of the statutes is created to read:

18 55.043 (1r) (b) 6. b. Under a lawful order of a court of record.

19 **SECTION 136.** 55.043 (1r) (c) 2. b. of the statutes is created to read:

20 55.043 (1r) (c) 2. b. The adult at risk has a guardian or agent under an activated
21 power of attorney for health care, but that guardian or agent is the person suspected
22 of abusing, neglecting, or financially exploiting the adult at risk.

1 **SECTION 137.** 55.043 (1r) (d) of the statutes is created to read:

2 55.043 (1r) (d) No person may be held civilly or criminally liable or be found
3 guilty of unprofessional conduct for responding to a report or for participating in or
4 conducting an investigation under this subsection, including the taking of
5 photographs or conducting of a medical examination, if the response or investigation
6 was performed in good faith and within the scope of his or her authority.

****NOTE: This provision now mirrors s. 46.90 (5) (h).

7 **SECTION 138.** 55.043 (2) of the statutes is renumbered 55.043 (2) (a) and
8 amended to read:

9 55.043 (2) (a) The county protective services adult-at-risk agency may request
10 a sheriff or police officer to accompany the adult-at-risk agency investigator or
11 worker during visits to the residence of the ~~vulnerable adult~~ adult at risk or request
12 other assistance as needed. If the request is made, a sheriff or police officer shall
13 accompany the adult-at-risk agency investigator of the ~~county protective services~~
14 ~~agency or worker~~ to the residence of the ~~vulnerable adult~~ adult at risk and shall
15 provide other assistance as requested or necessary.

16 **SECTION 139.** 55.043 (2) (b) of the statutes is created to read:

17 55.043 (2) (b) If the adult-at-risk agency worker or investigator or other
18 agency investigator has reason to believe that substantial physical harm,
19 irreparable injury, or death may occur to an adult at risk, the worker or investigator
20 shall either initiate a protective services action under this chapter or contact law
21 enforcement or another public agency, as appropriate.

****NOTE: This provision now corresponds to s. 46.90 (5) (f), except that the
adult-at-risk agency is to initiate a protective services action, rather than to request
immediate assistance in doing so.

22 **SECTION 140.** 55.043 (3) of the statutes is amended to read:

1 55.043 (3) RESTRAINING ORDER; INJUNCTION. If a person other than the
2 vulnerable adult interferes with the response or investigation under sub. (1) (1r) or
3 interferes with the delivery of protective services under this chapter to the
4 vulnerable adult at risk, the county protective services adult-at-risk agency
5 investigator or worker may obtain a restraining apply for an order or injunction
6 under s. 813.123 against the person prohibiting the interference.

7 **SECTION 141.** 55.043 (4) (title) of the statutes is amended to read:

8 55.043 (4) (title) OFFER OF SERVICES AND REFERRAL OF CASES.

9 **SECTION 142.** 55.043 (4) (intro.) of the statutes is renumbered 55.043 (4) (b)
10 (intro.) and amended to read:

11 55.043 (4) (b) (intro.) If upon investigation, after responding to a report, the
12 county protective services adult-at-risk agency finds misappropriation of property
13 or has reason to believe that the adult at risk has been the subject of abuse, financial
14 exploitation, neglect or abuse of a vulnerable adult, or self-neglect, the county
15 protective services adult-at-risk agency may do one or more any of the following:

16 **SECTION 143.** 55.043 (4) (a) of the statutes is renumbered 55.043 (4) (b) 1. and
17 amended to read:

18 55.043 (4) (b) 1. Offer services, including Initiate a protective services under
19 s. 55.05, a protective placement under s. 55.06, relocation assistance or other services
20 action or contact an investigative agency, as appropriate.

21 **SECTION 144.** 55.043 (4) (am) of the statutes is created to read:

22 55.043 (4) (am) Upon responding to a report, the adult-at-risk agency or the
23 investigative agency shall determine whether the adult at risk or any other
24 individual involved in the alleged abuse, financial exploitation, neglect, or
25 self-neglect is in need of services under this chapter or ch. 46, 47, 59, 51, or 880. If

1 provided, direct services shall be rendered under the least restrictive conditions
2 necessary to achieve their objective.

3 **SECTION 145.** 55.043 (4) (b) of the statutes is renumbered 55.043 (4) (b) 2. and
4 amended to read:

5 55.043 (4) (b) 2. Take appropriate emergency action, including emergency
6 protective placement under s. 55.06, if the ~~county protective services~~ adult-at-risk
7 agency considers that the emergency action is in the ~~vulnerable adult's~~ best interests
8 of the adult at risk and the emergency action is the least restrictive appropriate
9 intervention.

10 **SECTION 146.** 55.043 (4) (c) of the statutes is renumbered 55.043 (4) (b) 3. and
11 amended to read:

12 55.043 (4) (b) 3. Refer the case to local law enforcement officials under, as
13 specified in sub. (2), for further investigation or to the district attorney, if the ~~county~~
14 ~~protective services~~ adult-at-risk agency has reason to believe that a ~~violation of chs.~~
15 ~~939 to 951 has occurred~~ crime has been committed.

16 **SECTION 147.** 55.043 (4) (d) of the statutes is renumbered 55.043 (4) (b) 4. and
17 amended to read:

18 55.043 (4) (b) 4. Refer the case to the licensing permitting, registration, or
19 certification authorities of the department or to other regulatory bodies if the
20 residence, facility, or program for the ~~vulnerable adult~~ at risk is or should be licensed,
21 permitted, registered, or certified or is otherwise regulated.

22 **SECTION 148.** 55.043 (4) (e) of the statutes is renumbered 55.043 (4) (b) 5. and
23 amended to read:

24 55.043 (4) (b) 5. Refer the case to the department of regulation and licensing
25 if the ~~misappropriation of property or~~ financial exploitation, neglect, self-neglect, or

1 abuse involves an individual who is required to hold a credential, as defined in s.
2 440.01 (2) (a), under chs. 440 to 460.

***NOTE: Should self-neglect be included in this provision?

3 **SECTION 149.** 55.043 (4) (f) of the statutes is renumbered 55.043 (4) (b) 6. and
4 amended to read:

5 55.043 (4) (b) 6. Bring or refer for action to bring a petition for a guardianship
6 and protective ~~service~~ services or protective placement or a review of an existing
7 guardianship if necessary to prevent ~~misappropriation of property or~~ financial
8 exploitation, neglect, ~~self-neglect~~, or abuse and if the ~~vulnerable adult at risk~~ would
9 otherwise be at risk of serious harm because of an inability to arrange for necessary
10 food, clothing, shelter and, or services.

***NOTE: To whom should the reference be made? Do you mean "refer for action to bring a petition?"

11 **SECTION 150.** 55.043 (5) of the statutes is repealed.

***NOTE: Please see the ***NOTE under s. 813.123 (11).

12 **SECTION 151.** 55.043 (5g) of the statutes is created to read:

13 55.043 (5g) REFUSAL OF SERVICES. An adult at risk may refuse to accept services
14 unless a guardian authorizes the services. The adult-at-risk agency or other
15 provider agency shall notify the adult at risk of this right to refuse before providing
16 services.

17 **SECTION 152.** 55.043 (6) of the statutes is created to read:

18 55.043 (6) RECORDS; CONFIDENTIALITY. (a) In this subsection:

19 1. "Departmental report form" includes documentation of an adult-at-risk
20 agency's response to or investigation of a report made under sub. (1r) and is the
21 information required to be submitted to the department.

1 2. “Record” includes any document relating to the response, investigation,
2 assessment, and disposition of a report made under sub. (1r).

3 (am) The adult-at-risk agency shall prepare a departmental report form on its
4 response under sub. (1r) to a report of suspected abuse, financial exploitation,
5 neglect, or self-neglect. If the adult-at-risk agency refers the report to an
6 investigative agency, the investigative agency shall advise the adult-at-risk agency
7 in writing of its response to the report. The adult-at-risk agency shall maintain
8 records of suspected abuse, financial exploitation, neglect, or self-neglect.

9 (b) Departmental report forms are confidential and may not be released by the
10 adult-at-risk agency or other investigative agency, except under the following
11 circumstances:

12 1. To the adult at risk, any person named in a departmental report form who
13 is suspected of abusing, neglecting, or financially exploiting an adult-at-risk, and
14 the suspect’s attorney. These persons may inspect the departmental report form,
15 except that information identifying the person who initially reported the suspected
16 abuse, financial exploitation, neglect, or self-neglect, or any other person whose
17 safety might be endangered through disclosure, may not be released.

18 2. To the agency or other entity contacted under sub. (2) (b). Information
19 obtained under this subdivision shall remain confidential.

20 3. To an individual, organization, or agency designated by the department or
21 as required by law for the purposes of management audits or program monitoring
22 and evaluation. Information obtained under this subdivision shall remain
23 confidential and may not be used in any way that discloses the names of or other
24 identifying information about the individuals involved.

1 4. For purposes of research, if the research project has been approved by the
2 department or the adult-at-risk agency and the researcher has provided assurances
3 that the information will be used only for the purposes for which it was provided to
4 the researcher, the information will not be released to a person not connected with
5 the study under consideration, and the final product of the research will not reveal
6 information that may serve to identify the individuals involved. The information
7 shall remain confidential. In approving the use of information under this
8 subdivision, the department shall impose any additional safeguards needed to
9 prevent unwarranted disclosure of information.

***NOTE: Please review my changes. The department is only approving the use
of the information under this subdivision, not the project itself.

10 5. Under lawful order of a court of record.

11 6. To any agency or individual that provides direct services under sub. (4),
12 including an attending physician for purposes of diagnosis, examination, and
13 treatment, and within the department to coordinate treatment for mental illness,
14 developmental disabilities, alcoholism, or drug abuse of individuals committed to or
15 under the supervision of the department. Information obtained under this
16 subdivision shall remain confidential.

17 7. To the guardian of the adult at risk or the guardian of any person named in
18 a report who is suspected of abusing, neglecting, or financially exploiting an adult
19 at risk. These persons may inspect the departmental report form, except that
20 information identifying the person who initially reported the suspected abuse,
21 financial exploitation, neglect, or self-neglect, or any other person whose safety
22 might be endangered through disclosure, may not be released.

1 8. To law enforcement officials in accordance with the policy developed under
2 sub. (1g) (a).

***NOTE: This subdivision now corresponds to s. 46.90 (6) (b) 8. in current law.

3 9. To a federal agency, agency of ~~this state~~ or any other state, or local unit of
4 government in this state or any other state that has a need for a departmental report
5 form in order to carry out its responsibility to protect adults at risk from abuse,
6 financial exploitation, neglect, or self-neglect.

7 10. To the reporter who made a report in his or her professional capacity,
8 regarding action taken to protect or provide services to the alleged victim of abuse,
9 financial exploitation, neglect, or self-neglect.

10 (bd) If a person requesting a departmental report form is not one of the persons
11 or entities specified in par. (b), the adult-at-risk agency may release information
12 indicating only whether or not a report was received and whether or not statutory
13 responsibility was fulfilled.

14 (br) Notwithstanding par. (b) 1. to 10., an adult-at-risk agency or an
15 investigative agency may not release departmental report forms under this section,
16 if any of the following applies:

17 1. The adult-at-risk agency determines that release would be contrary to the
18 best interests of the adult at risk who is the subject of the departmental report form
19 or of a minor residing with the subject of the departmental report form, or the release
20 is likely to cause mental, emotional, or physical harm to the subject of the
21 departmental report form or to any other individual.

22 2. The district attorney determines that disclosure of the information would
23 jeopardize any ongoing or future criminal investigation or prosecution or would
24 jeopardize a defendant's right to a fair trial.

1 3. The adult-at-risk agency determines that disclosure would jeopardize
2 ongoing or future civil investigations or proceedings or would jeopardize the fairness
3 of such a legal proceeding.

4 (bt) Subject to pars. (b), (bd), (br), (bv) and (bw), records under this subsection
5 are confidential and may not be released by the adult-at-risk agency or other
6 investigative agency, except under the following circumstances, upon request:

7 1. To the adult at risk who is the alleged victim named in the record.

8 2. To the legal guardian, conservator, or other legal representative of the adult
9 at risk who is the alleged victim named in the record, if the legal guardian,
10 conservator, or other legal representative of the alleged victim is not the alleged
11 perpetrator of the abuse, financial exploitation, or neglect.

12 3. To law enforcement officials and agencies in accordance with the policy
13 developed under sub. (1g) (a) or with investigations conducted under sub. (1r), or a
14 district attorney, for purposes of investigation or prosecution.

15 4. To the department, under s. 51.03 (2), or for death investigations under s.
16 50.04 (2t) or 50.035 (5); or to a sheriff, police department, or district attorney for
17 death investigations under s. 51.64 (2) (a).

18 5. To an employee of the county department under s. 51.42 or 51.437 that is
19 providing services to an adult at risk who is the alleged victim named in the record,
20 or to the alleged perpetrator of abuse, to determine whether the alleged victim should
21 be transferred to a less restrictive or more appropriate treatment modality or facility.

22 6. To a court, tribal court, or state governmental agency for a proceeding
23 relating to the licensure or regulation of an individual or entity regulated or licensed
24 by the department, that was an alleged perpetrator of abuse, financial exploitation,
25 or neglect, and to the board on aging and long-term care, under s. 16.009.

State governmental agency ✓

****NOTE: Please see my change to the term “administrative agency” proposed; I think it would help this draft to have “agency” defined; I would recommend the definition in s. 16.417 (1) (a), stats.

1 7. To the department, for management, audit, program monitoring,
2 evaluation, billing, or collection purposes.

3 8. To the attorney or guardian ad litem for the adult at risk who is the alleged
4 victim named in the record, to assist in preparing for any proceeding under ch. 48,
5 51, 55, 880, 971, or 975 pertaining to the alleged victim.

6 9. To a coroner, medical examiner, pathologist, or other physician investigating
7 the cause of death of an adult at risk that is unexplained or unusual or is associated
8 with unexplained or suspicious circumstances.

9 10. To staff members of the protection and advocacy agency designated under
10 s. 51.62 and the board on aging and long-term care under s. 16.009.

11 11. To an agency, including a probation or parole agency, that is legally
12 responsible for the supervision of an alleged perpetrator of abuse, neglect, or
13 financial exploitation of an adult at risk.

14 12. To a grand jury, if it determines that access to specified records is necessary
15 for the conduct of its official business.

16 13. Under a lawful order of a court of record.

17 (bv) The identity of a person making a report of alleged abuse, neglect,
18 self-neglect, or financial exploitation shall be deleted from any record prior to its
19 release under par. (bt) or from any departmental report form prior to its release
20 under par. (b). The identity of any reporter may only be released with the written
21 consent of the reporter or under a lawful order of a court of record.

1 (bw) A person to whom a departmental report form or a record is disclosed
2 under this subsection may not further disclose it, except to the persons and for the
3 purposes specified in this subsection.

4 (by) A custodian of records or departmental report forms incurs no civil or
5 criminal liability under this subsection and may not be found guilty of unprofessional
6 conduct for the release or nonrelease of records or departmental report forms in
7 accordance with this subsection while acting in good faith and within the scope of his
8 or her authority.

9 **SECTION 153.** 55.043 (7) of the statutes is created to read:

10 55.043 (7) EXCEPTION. Nothing in this section may be construed to mean that
11 a person is abused, financially exploited, neglected, or in need of direct or protective
12 services solely because he or she consistently relies upon treatment by spiritual
13 means through prayer for healing in accordance with his or her religious tradition.

14 **SECTION 154.** 55.043 (8) of the statutes is created to read:

15 55.043 (8) DEPARTMENT DUTIES. (a) The department shall develop a plan to
16 assist adult-at-risk agencies in determining appropriate responses to reports of
17 abuse, financial exploitation, neglect, or self-neglect.

18 (b) The department shall prepare and distribute sample departmental report
19 forms for use by adult-at-risk agencies.

20 (c) The department shall collect statistical information from each county
21 pertaining to each reported case of abuse, financial exploitation, neglect, or
22 self-neglect. The department may require adult-at-risk agency workers or
23 investigators to submit departmental report forms to the department that
24 summarize the information being reported. These departmental report forms may
25 not name or otherwise identify individuals. The department shall use this

1 information to review the effectiveness of this section, to plan program changes, and
2 to formulate reports.

3 (d) The department shall develop and disseminate information on
4 adult-at-risk abuse and the adult-at-risk reporting system under this section. The
5 department shall also develop informational materials to be used by adult-at-risk
6 agencies regarding abuse of adults at risk and regarding the adult-at-risk abuse
7 reporting system. The department shall solicit contributions of labor, materials, and
8 expertise from private sources to assist in developing the informational materials.

9 **SECTION 155.** 55.043 (9) of the statutes is repealed.

10 **SECTION 156.** 55.043 (9m) of the statutes is created to read:

11 55.043 (9m) PENALTIES. (a) Any person, including the state or any political
12 subdivision of the state, violating sub. (6) is liable to any person damaged as a result
13 of the violation for such damages as may be proved, together with exemplary
14 damages of not less than \$100 nor more than \$500 for each violation and the costs
15 and reasonable actual attorney fees that are incurred by the person damaged.

16 (b) In any action brought under par. (a) in which the court determines that the
17 violator acted in a manner that was knowing and willful, the violator shall be liable
18 for such damages as may be proved together with exemplary damages of not less than
19 \$500 nor more than \$1,000 for each violation, together with costs and reasonable
20 actual attorney fees as may be incurred. It is not a prerequisite to an action under
21 par. (a) that the plaintiff suffer or be threatened with actual damages.

22 (c) An individual may bring an action to enjoin any violation of sub. (6) or to
23 compel compliance with sub. (6), and may in the same action seek damages as
24 provided in this subsection. The individual may recover costs and reasonable actual
25 attorney fees incurred in the action, if he or she prevails.

1 (d) Whoever violates sub. (1m) (c) 1. may be fined not more than \$10,000 or
2 imprisoned for not more than 6 months or both.

***NOTE: I renumbered the material proposed as s. 55.043 (3m) (c) 1. c. and (5) (f) as s. 55.043 (9m) because statutes generally include penalties as one of the last provisions created in a section. Please review.

3 (e) Whoever intentionally violates sub. (1m) (b) by failure to report as required
4 may be fined not more than \$500 or imprisoned not more than 6 months or both.

***NOTE: As agreed, I drafted this penalty, which corresponds to s. 46.90 (9) (e).

5 **SECTION 157.** 55.06 (2) (c) of the statutes is amended to read:

6 55.06 (2) (c) As a result of developmental disabilities, ~~infirmities of aging~~
7 degenerative brain disorder, chronic mental illness, or other like incapacities, is so
8 totally incapable of providing for his or her own care or custody as to create a
9 substantial risk of serious harm to ~~oneself~~ himself, herself, or others. Serious harm
10 may be occasioned by overt acts or acts of omission; and

11 **SECTION 158.** 55.06 (11) (a) of the statutes is amended to read:

12 55.06 (11) (a) If, from personal observation of a sheriff, police officer, fire
13 fighter, guardian, if any, or authorized representative of a board designated under
14 s. 55.02 or an agency designated by it, it appears probable that an individual will
15 suffer irreparable injury or death or will present a substantial risk of serious physical
16 harm to others as a result of developmental disabilities, ~~infirmities of aging~~
17 degenerative brain disorder, chronic mental illness or other like incapacities if not
18 immediately placed, the person making the observation may take into custody and
19 transport the individual to an appropriate medical or protective placement facility.
20 The person making placement shall prepare a statement at the time of detention
21 providing specific factual information concerning the person's observations and the
22 basis for emergency placement. The statement shall be filed with the director of the

1 facility and shall also be filed with any petition under sub. (2). At the time of
2 placement the individual shall be informed by the director of the facility or the
3 director's designee, both orally and in writing, of his or her right to contact an
4 attorney and a member of his or her immediate family and the right to have an
5 attorney provided at public expense, as provided under s. 967.06 and ch. 977, if the
6 individual is a child or is indigent. The director or designee shall also provide the
7 individual with a copy of the statement by the person making emergency placement.

8 **SECTION 159.** 106.54 (5) of the statutes is amended to read:

9 106.54 (5) The division shall receive complaints of discharge, retaliation or
10 discrimination under s. 16.009 (5) (d), 46.90 (4) (b) ~~or~~, 50.07 (3) (b), or 55.043 (1m) (c)
11 and shall process the complaints in the same manner that employment
12 discrimination complaints are processed under s. 111.39.

13 **SECTION 160.** 146.40 (1) (ab) of the statutes is created to read:

14 146.40 (1) (ab) "Abuse" has the meaning given in s. 46.90 (1) (a).

15 **SECTION 161.** 146.40 (1) (aw) of the statutes is created to read:

16 146.40 (1) (aw) "Financial exploitation" means any of the following:

17 1. Obtaining an individual's money or property by deceiving or enticing the
18 individual, or by forcing, compelling, or coercing the individual to give, sell at less
19 than fair market value, or in other ways convey money or property against his or her
20 will without his or her informed consent.

21 2. Theft, as prohibited in s. 943.20.

22 3. The substantial failure or neglect of a fiscal agent to fulfill his or her
23 responsibilities.

24 **SECTION 162.** 146.40 (4g) (a) 3. of the statutes is amended to read:

1 146.40 (4g) (a) 3. Findings of the department under sub. (4r) (b) or of the
2 hearing officer under sub. (4r) (d) concerning the ~~misappropriation of property~~
3 financial exploitation or the neglect or abuse of a client by an individual listed under
4 sub. 2.

5 **SECTION 163.** 146.40 (4r) (a) of the statutes is amended to read:

6 146.40 (4r) (a) Any individual may report to the department that he or she
7 believes that any person employed by or under contract with an entity has neglected
8 or abused a client or ~~misappropriated the client's property~~ financially exploited the
9 client.

10 **SECTION 164.** 146.40 (4r) (am) 1. of the statutes is amended to read:

11 146.40 (4r) (am) 1. Except as provided in sub. 2., an entity shall report to the
12 department any allegation of ~~misappropriation of the property~~ financial exploitation
13 of a client or of neglect or abuse of a client by any person employed by or under
14 contract with the entity if the person is under the control of the entity.

15 **SECTION 165.** 146.40 (4r) (am) 2. of the statutes is amended to read:

16 146.40 (4r) (am) 2. An entity shall report to the department of regulation and
17 licensing any allegation of ~~misappropriation of the property~~ financial exploitation of
18 a client or of neglect or abuse of a client by any person employed by or under contract
19 with the entity if that person holds a credential that is related to the person's
20 employment at, or contract with, the entity if the person is under the control of the
21 entity.

22 **SECTION 166.** 146.40 (4r) (am) 3. of the statutes is amended to read:

23 146.40 (4r) (am) 3. An entity that intentionally fails to report an allegation of
24 ~~misappropriation of the property~~ financial exploitation of a client or of neglect or

1 abuse of a client may be required to forfeit not more than \$1,000 and may be subject
2 to other sanctions specified by the department by rule.

3 **SECTION 167.** 146.40 (4r) (b) of the statutes is amended to read:

4 146.40 (4r) (b) Except as provided in pars. (em) and (err), the department shall
5 review and investigate any report received under par. (a) or (am) and, if the
6 allegation is substantiated, make specific, documented findings concerning the
7 ~~misappropriation of property~~ financial exploitation or the neglect or abuse. The
8 department shall in writing by certified mail notify the person specified in the report
9 that the person's name and the department's findings about the person shall be listed
10 in the registry under sub. (4g) (a) 2. and 3. unless the person contests the listings in
11 a hearing before the division of hearings and appeals created under s. 15.103 (1). The
12 written notification shall describe the investigation conducted by the department,
13 enumerate the findings alleging ~~misappropriation of property~~ financial exploitation
14 or neglect or abuse of a client and explain the consequence to the person specified in
15 the report of waiving a hearing to contest the findings. The person specified in the
16 report shall have 30 days after receipt of the notification to indicate to the
17 department in writing whether he or she intends to contest the listing or to waive the
18 hearing.

19 **SECTION 168.** 146.82 (2) (a) 7. of the statutes is amended to read:

20 146.82 (2) (a) 7. To ~~a county~~ an elder-adult-at-risk agency designated under
21 s. 46.90 (2) or other investigating agency under s. 46.90 for purposes of s. 46.90 (4)
22 (a) and (5) or to ~~the county protective services~~ an adult-at-risk agency designated
23 under s. 55.02 for purposes of s. 55.043. The health care provider may release
24 information by initiating contact with the ~~county~~ elder-adult-at-risk agency or
25 ~~county protective services~~ adult-at-risk agency without receiving a request for

1 release of the information from the county ~~elder-adult-at-risk~~ agency or county
2 protective services adult-at-risk agency.

3 **SECTION 169.** 813.123 (title) of the statutes is amended to read:

4 **813.123 (title)** ~~Vulnerable adult restraining~~ **Restraining** orders and
5 **injunctions for individuals at risk.**

6 **SECTION 170.** 813.123 (1) (a) of the statutes is amended to read:

7 813.123 (1) (a) “Abuse” has the meaning given in s. ~~55.01~~ **46.90** (1) (a).

8 **SECTION 171.** 813.123 (1) (ae) of the statutes is created to read:

9 813.123 (1) (ae) “Adult at risk” has the meaning given in s. 55.01 (1e).

10 **SECTION 172.** 813.123 (1) (am) of the statutes is created to read:

11 813.123 (1) (am) “Adult-at-risk agency” has the meaning given in s. 55.01 (1f).

12 **SECTION 173.** 813.123 (1) (b) of the statutes is amended to read:

13 813.123 (1) (b) “Bodily harm” has the meaning given in s. ~~939.22 (4)~~ **46.90 (1)**
14 (aj).

15 **SECTION 174.** 813.123 (1) (br) of the statutes is created to read:

16 813.123 (1) (br) “Caregiver” has the meaning given in s. 46.90 (1) (an).

17 **SECTION 175.** 813.123 (1) (c) of the statutes is repealed.

18 **SECTION 176.** 813.123 (1) (cg) of the statutes is created to read:

19 813.123 (1) (cg) “Elder adult at risk” has the meaning given in s. 46.90 (1) (br).

20 **SECTION 177.** 813.123 (1) (dm) of the statutes is created to read:

21 813.123 (1) (dm) “Financial exploitation” has the meaning given in s. 46.90 (1)
22 (ed).

23 **SECTION 178.** 813.123 (1) (eg) of the statutes is created to read:

24 813.123 (1) (eg) “Harassment” has the meaning given in s. 813.125 (1).

25 **SECTION 179.** 813.123 (1) (ep) of the statutes is created to read:

1 813.123 (1) (ep) “Individual at risk” means an elder adult at risk or an adult
2 at risk.

3 **SECTION 180.** 813.123 (1) (f) of the statutes is repealed.

4 **SECTION 181.** 813.123 (1) (fm) of the statutes is created to read:

5 813.123 (1) (fm) “Mistreatment of an animal” means cruel treatment of any
6 animal owned by or in service to an individual at risk.

7 **SECTION 182.** 813.123 (1) (g) of the statutes is amended to read:

8 813.123 (1) (g) “Neglect” has the meaning given in s. 55.01 (4r) 46.90 (1) (f).

9 **SECTION 183.** 813.123 (1) (gr) of the statutes is created to read:

10 813.123 (1) (gr) “Self-neglect” has the meaning given in s. 46.90 (1) (g).

11 **SECTION 184.** 813.123 (1) (gs) of the statutes is created to read:

12 813.123 (1) (gs) “Stalking” means engaging in a course of conduct, as defined
13 in s. 940.32 (1) (a).

14 **SECTION 185.** 813.123 (1) (h) of the statutes is repealed.

15 **SECTION 186.** 813.123 (2) of the statutes is renumbered 813.123 (2) (a) and
16 amended to read:

17 813.123 (2) (a) No action under this section may be commenced by complaint
18 and summons. An action under this section may be commenced only by a petition
19 described under sub. (6). The action commences with service of the petition upon the
20 respondent if a copy of the petition is filed before service or promptly after service.
21 ~~The vulnerable adult, a parent, an adult sibling, an adult child or the legal guardian~~
22 ~~of the vulnerable adult or a county protective services agency~~ individual at risk, any
23 person acting on behalf of an individual at risk, an elder-adult-at-risk agency, or an
24 adult-at-risk agency may be a petitioner under this section. If the petition is filed
25 by a person other than the individual at risk, the petitioner shall serve a copy of the

petition on the individual at risk. Section 813.06 does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing.

SECTION 187. 813.123 (2) (b) of the statutes is created to read:

813.123 (2) (b) The court may go forward with a petition filed under sub. (6) notwithstanding an objection by an individual at risk who is the subject of the petition, or an objection by the guardian of the individual at risk if the individual at risk has been adjudicated incompetent under ch. 880. *move*
or keep

***NOTE: Is the "if" clause in this provision intended to modify both kinds of objections? If so, it should be placed at the beginning of the provision, rather than the end.

SECTION 188. 813.123 (3) (b) (intro.) and 1. of the statutes are consolidated, renumbered 813.123 (3) (b) and amended to read:

813.123 (3) (b) The court or circuit court commissioner, on its or his or her own motion or the motion of any party, may shall order ~~one or more of the following:~~ 1. That that a guardian ad litem be appointed under s. 880.331 (1) for the vulnerable adult individual at risk, if the petition under sub. (6) was filed by a person other than the individual at risk, and may order that a guardian ad litem be appointed in other instances when justice so requires.

SECTION 189. 813.123 (3) (b) 2. and 3. of the statutes are renumbered 813.123 (3) (c) 1. and 2. and amended to read:

813.123 (3) (c) 1. That all persons, other than the vulnerable adult individual at risk, the parties, their attorneys, a representative of the county protective services adult-at-risk agency or elder-adult-at-risk agency, witnesses, court personnel, and any guardian or any guardian ad litem, be excluded from any hearing under this section.

1 2. That access to any record of an action under this section be available only
2 to the ~~vulnerable adult~~ individual at risk, the parties, their attorneys, any guardian
3 or any guardian ad litem, the ~~county protective services~~ adult-at-risk agency or
4 elder-adult-at-risk agency, court personnel, and, upon appeal, any applicable court
5 upon appeal.

****NOTE: Is my change to "upon appeal" in this provision correct, or is the record of any action really supposed to be available to all of the parties, etc., only if the case is appealed?

6 **SECTION 190.** 813.123 (3) (c) (intro.) of the statutes is created to read:

7 813.123 (3) (c) (intro.) The court or circuit court commissioner, on its or his or
8 her own motion or the motion of any party, may order any of the following:

9 **SECTION 191.** 813.123 (4) (a) (intro.) of the statutes is amended to read:

10 813.123 (4) (a) (intro.) Unless the ~~vulnerable adult~~ individual at risk, guardian,
11 or guardian ad litem consents in writing and the judge or circuit court commissioner
12 agrees that the contact is in the best interests of the ~~vulnerable adult~~ individual at
13 risk, a judge or circuit court commissioner shall issue a temporary restraining order
14 ~~ordering the respondent to avoid interference with an investigation of the vulnerable~~
15 ~~adult under s. 55.043, the delivery of protective services to the vulnerable adult~~
16 ~~under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06, as~~
17 specified in par. (ar), if all of the following occur:

18 **SECTION 192.** 813.123 (4) (a) 2. of the statutes is renumbered 813.123 (4) (a) 2.
19 (intro.) and amended to read:

20 813.123 (4) (a) 2. (intro.) The judge or circuit court commissioner finds
21 reasonable grounds to believe that any of the following:

22 a. That the respondent has interfered with, or, based on prior conduct of the
23 respondent, may interfere with, an investigation of the ~~vulnerable adult under s.~~

55.043, individual at risk, the delivery of protective services to the vulnerable adult
individual at risk under s. 55.05 or a protective placement of the vulnerable adult
individual at risk under s. 55.06, or the delivery of services to an elder adult at risk
under s. 46.90 (5m).

****NOTE: This draft repeals s. 46.90 (5) (d) 2. That provision states, "The court shall grant the order upon a showing that there is reasonable cause to believe that abuse, material abuse, neglect or self-neglect has occurred *and that the interference complained of, if continued, would make it difficult to determine whether abuse, material abuse, neglect or self-neglect has occurred, is occurring or may recur.*" (Emphasis mine.) Should any of the italicized standard be placed in s. 813.123 (4) (a) 2. a.?

whether
abuse,
material
abuse,
neglect,
or self-neglect
has
occurred, is
occurring, or may
recur

SECTION 193. 813.123 (4) (a) 2. b. of the statutes is created to read:

813.123 (4) (a) 2. b. That the respondent engaged in or threatened to engage
in the abuse, financial exploitation, neglect, harassment, or stalking of an individual
at risk or the mistreatment of an animal.

SECTION 194. 813.123 (4) (ar) of the statutes is created to read:

813.123 (4) (ar) A temporary restraining order issued under par. (a) shall order
the respondent to do one or more of the following:

1. Avoid interference with an investigation of the elder adult at risk under s.
46.90 or the adult at risk under s. 55.043, the delivery of protective services to the
individual at risk under s. 55.05 or a protective placement of the individual at risk
under s. 55.06, or the delivery of services to the elder adult at risk under s. 46.90 (5m).

2. Cease engaging in or threatening to engage in the abuse, financial
exploitation, neglect, harassment, or stalking of an individual at risk or
mistreatment of an animal.

3. Avoid the residence of the individual at risk or any other location temporarily
occupied by the petitioner, or both.

****NOTE: Why "temporarily"? Several different persons may be petitioners; why would they necessarily be temporary occupants?

individual at risk

1 4. Avoid contacting or causing any person other than a party's attorney or a law
2 enforcement officer to contact the individual at risk unless the individual at risk
3 consents in writing.

4 5. Engage in any other appropriate remedy not inconsistent with the remedies
5 requested in the petition.

****NOTE: I have greatly revised the treatment of s. 813.123 (4) (a) and (ar) from the proposal. Since one may treat a unit of the statutes only once (e.g., one may not both renumber s. 813.123 (4) (a) 2. and create s. 813.123 (4) (a) 2.) and since one must treat statutes in sequence, the end result would have been very confusing to read in the bill. I have, instead, created s. 813.123 (4) (ar) to specify what the TRO may order the respondent to do, rather than the criteria for issuance of the TRO.

6 **SECTION 195.** 813.123 (5) (a) (intro.) of the statutes is amended to read:

7 813.123 (5) (a) (intro.) Unless the vulnerable adult individual at risk, guardian,
8 or guardian ad litem consents in writing to ~~that a~~ contact ~~in writing~~ and the judge
9 agrees that the contact is in the best interests of the vulnerable adult individual at
10 risk, a judge may grant an injunction ordering the respondent ~~to avoid interference~~
11 ~~with an investigation of the vulnerable adult under s. 55.043, the delivery of~~
12 ~~protective services to the vulnerable adult under s. 55.05 or a protective placement~~
13 ~~of the vulnerable adult under s. 55.06, as specified in par. (ar),~~ if all of the following
14 occur:

15 **SECTION 196.** 813.123 (5) (a) 3. a. of the statutes is amended to read:

16 813.123 (5) (a) 3. a. That the respondent has interfered with, or, based upon
17 prior conduct of the respondent, may interfere with, an investigation of the
18 vulnerable elder adult at risk under s. 46.90 or the adult at risk under s. 55.043 and
19 that the interference complained of, if continued, would make it difficult to
20 determine if ~~misappropriation of property or abuse or neglect, financial exploitation,~~
21 neglect, harassment, or stalking of an individual at risk or mistreatment of an
22 animal is occurring or may recur.